

No. 9(1)82-6Lab/6239.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Northern India Iron Steel Co. Ltd., 20/3, Milestone, Mathura Road, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 153/1982

between

SHRI KAUSHAL KISHORE GAUTAM, WORKMAN AND THE MANAGEMENT OF M/S
NORTHERN INDIA IRON AND STEEL CO. LTD., 20/3, MILESTONE, MATHURA ROAD,
FARIDABAD

Present:

Shri K. P. Aggarwal for the Management.
Nemo for the Workman.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Kaushal Kishore Gautam and the management of M/s Northern India Iron and Steel Co. Ltd., 20/3, Milestone, Mathura Road, Faridabad, by order No. ID/FD/35/82/21261, dated 7th May, 1982, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947.—

Whether the termination of service of Shri Kaushal Kishore Gautam was justified and in order? If not, to what relief is he entitled?

Notices of the reference, were sent to the parties. The management was present but the workman did not appear despite service. Therefore, the case was ordered to be dismissed for non-prosecution by the workman. I, therefore, dismiss the case for non-prosecution by the workman.

Dated 11th June, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 605, dated 11th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/6240.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s (Harve (India) Pvt., Ltd. Plot No. 201 Industrial Area, Panchkula (Ambala):—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 350 of 1981

between

SHRI GANGA DAYAL, AND THE MANAGEMENT OF M/S HARVE (INDIA) PVT.
LTD., PLOT NO. 201 INDUSTRIAL AREA, PANCHKULA (AMBALA).

Present:—

Shri Rajeshwar Nath, for the workman.

Shri Nemo for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Ganga Dayal and the management of M/s. Harve (India) Pvt. Ltd., Plot No. 201, Industrial Area, Panchkula (Ambala), by order No. ID/AMB/135/81/55003 dated 6th November, 1981, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ganga Dayal was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the next date, the representative of the workman made a statement that the workman had settled his dispute with the management and had received a sum of Rs 4500/- in settlement of his dispute and all his other claim.

In view of the statement, I pass by award that the dispute has been settled by the parties and there nothing remains for adjudication.

M. C. BHARDWAJ,

Dated the 11th June, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 606, dated the 11th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6-Lab/6241.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the Management of M/s. Ram Singh Contractor C/o Partap Steel Rolling Mills, Mathura Road, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 101 of 1982

between

SHRI BHOSI MANDAL, WORKMAN AND THE MANAGEMENT OF M/S RAM SINGH
CONTRACTOR C/O PARTAP STEEL ROLLING MILLS, MATHURA ROAD,
BALLABGARH.

Present:—

Shri Bhosi Mandal, workman himself.

Shri K. P. Agrawal, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Bhosi Madal and the management of M/s Ram Singh Contractor C/o Partap Steel Rolling Mills, Mathura Road, Ballabgarh by order No. ID/FD/15/82/6015 dated 25th March, 1982, to this Tribunal,

for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Bhosi Mandal was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the next date, the workman himself made a statement that the management had taken him back on duty and there nothing remained for adjudication. He prayed that no dispute award may be passed. The representative of the management also endorsed the above statement.

In view of the above statement, I pass my award that disputes had been settled by the parties and there nothing remains for adjudication

Dated the 11th June, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 607, dated the 11th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 21st July, 1982

No. 9(1)82-6Lab./6474.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Precision Products of India, Hissar Road, Rohtak:—

BEFORE SHRI M. C. BHARDWAJ PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. of 47/1982

between

THE WORKMEN AND THE MANAGEMENT OF M/S PRECISION PRODUCTS OF INDIA
HISSAR ROAD, ROHTAK

Present:—

Shri Vijay Lal Partner, for the management.

Nemo for the workmen.

AWARD

The State Government of Haryana referred the following disputes between the management of M/s Precision Products of India Hissar Road, Rohtak and its workmen, by order No. ID/RTK/5864, dated 4th February, 1982 to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the closure of the factory with effect from 1st May, 1981 is justified and in order ?
If not, to what relief the workmen are entitled ?

On receipt of the reference, notices were sent to the parties. The management appeared but the workman did not appear. On the date fixed, Shri Vijay Pal, Partner for respondent-management made a statement that the workman had settled their dispute with the management. He filed a copy of settlement Ex. M-1, duly signed by the parties.

In view of the settlement and statement, I pass my award that the workmen had settled their dispute with the management and nothing remains their for adjudication.

Dated the 27th May, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 542, dated the 28th May, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 3rd May, 1982

No. 9 (1) 82-6Lab./3574.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. E.C.E. Co. Ltd. (Transformer Division), Delhi Road, Sonapat :—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 433 of 1980

between

SHRI K. D. GEORGE, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S
E. C. E. CO. LTD. (TRANSFORMER DIVISION), DELHI ROAD, SONEPAT.

Prsnt.—

Shri S. N. Solanki for the workman.

Shri Surinder Kaushal for the respondent management.

AWARD

This reference No. 433 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—
vide his order No. ID/SPT/135-80/46163, dated 29th August, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947, existing between Shri K. D. George, workman and the respondent management of M/s. E. C. E. Co. Ltd. (Transformer Division), Delhi Road, Sonapat. The term of the reference was :—

Whether the termination of services of Shri K. D. George was justified and in order? If not, to what relief is he entitled?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman is that he joined the respondent concerned in the year 1975 as a Radiator Fitter on a salary of Rs. 353 per month, and he was laid off from 17th February, 1980 to 2nd April, 1980 by the company. and resumed duty on 3rd April, 1980 but the respondent did not supplied raw material, and give no duty and was not allowed to join the duty on 2nd May, 1980 and in this way terminated the service without any reason or notice. It is violation of sect.on 25-F of the Industrial Disputes Act and the workman is entitled for his reinstatement with full back wages and continuity of service.

According to the written statement the case of the respondent is that the applicant met with an accident while on duty for which he was given the benefits of disability by the E. S. I. The claimant was laid off for few days, but he did not turn up there after and remained absent continuously. The respondent treated as absent from duty and the claimant abandoned the employment of his own according to the standing orders of the Company. The management while compelled to treat him to have abandoned the employment and left the service of his own accord. The contention of the claimant that the junior workers were allowed to work for over time, is wrong. The claimant has not filed the claim statement and rejoined and did not clear in his claim statement what he did from 3rd April, 1980 to 2nd May, 1980. The claimant has mentioned in the demand notice that he resumed duty on 3rd April, 1980 but also not allowed any work and he was not allowed to report for duty after 2nd May, 1980. The contention of the claimant is self contradictory and did not convey any senses. The applicant has not cleared what he was doing after 3rd April, 1980, if he was not provided with the raw material for the work. After the demand notice the respondent put the same contention before the Conciliation Officer.

On the pleadings of the parties, the following issues were framed:—

1. Whether it is a case of voluntarily abandonment of service by the workman as he absented himself from duty.
2. Whether the termination of service of the workman is proper, justified and in order? If not, to what relief is he entitled?
3. Relief?

My findings issuewise are as under:—

Issue No. 1 :— The representative of the respondent argued on this issue that the claimant was working with the respondent and he met with a minor accident and he was given the due benefits of E. S. I. for disability. Thereafter he was reluctant to perform the duty which is best known to him and started absenting from duty. It is not the case of termination from the service but a case of abandonment of employment by the conduct of the claimant. There is no question of violation of provisions of section 25-F of the Industrial Disputes Act. The claimant gave a demand notice after a lapse of two months which shows the conduct of the workman. As per provisions of the certified standing order applicable in the factory, the person who remained absent for more than 10 days loses the lien automatically and it is case of loss of lien of the claimant and not of termination of employment. On these basis the present demand notice is not competent and not covered under section 2-A of the Industrial Disputes Act. The individual dispute in become industrial dispute only when there is a termination on the part of the employer or service of any employee is retrenched, terminated or dismissed and the above case does not have the ingredients of section 2-A of the Industrial Disputes Act, 1947 and claimant cannot claim the benefit of the deeming provisions as contained in Section 2A of the Industrial Disputes Act. He further argued that Shri Suraj Bhan Sharma, an ex-employee of the respondent came in the witness box as MW-1 and what he has stated before this Court is truth because he has no attachment with the respondent when he left the service of the same. He has stated that he knew the workman who worked in Radiator Department and notice Ex-M-1 for the lay off was displayed on the notice board in which the name of the workman was included. The another notice Ex. M-1 was also displayed on the notice board by which the lay off of Shri Ram Sumer, Shiv Ji and K. D. George were continued on lay off and another workmen were called for duty. Another notice Ex. M-3 was displayed in which the three workmen mentioned above were called for duty and another notice Ex. M-4 was also displayed on the notice board in which these workmen were called for duty and on this notice Shri Shiv Ji Dubey and Ram Kumar Pardhan came on duty and the claimant Shri K. D. George did not come to join the duty. The lay off was due to the shortage of work in the Radiator Department and due to the scarcity of the electricity and the workmen were asked to come on duty for another work in the factory in which Shri Shiv Ji Dubey and Shri Ram Kumar Pardhan gave in writing to accept the duty which is Ex. M-5 and Ex. M-6. the writing of these workmen. But Shri K. D. George did not come to join the duty. The witness has stated, that there is endorsement on Ex. 5 of his own hand and these workmen were given the work. The witness has further stated that he has brought the attendance register in which the workman is present upto 31st March, 1980 and the claimant met the witness Mr. Sharma who told him that this name in laid off has been finished and he should come to join his duty on 1st April, 1980 but inspite this the claimant did not come to join the duty from 1st April, 1980 and his name was struck off from the roll of company in the month of May, 1980. He further argued that the witness has also stated in his cross-examination that Radiator Department has been closed by the respondent and the workmen who work in the department were given another job in the factory. He further argued that the respondent has produced another witness Shri Santosh Singh, Supervisor of the respondent company as MW-2 who has supported the case of the respondent and the workman representative could not suggest any thing to the workman in his cross-examination which matter in the case. It shows that the workman abandoned his service of his own by absenting himself voluntarily. He further argued that except the demand notice the workman has not produced any documentary

evidence to prove his case and no other witness except himself has come in the Court to depose in favour of the workman. It clearly shows that the workman voluntarily abandoned his service by absenting himself from the respondent. The respondent further argued that before the Conciliation Officer the respondent took the same pleas as they have stated in their statement which annexure with the written statement that they were willing to accept the workmen on duty if he explain his absence from duty and the Conciliation Officer has also directed the claimant to explain the reason of his absence from duty but the workman did not come to clear his position before the respondent in spite of instruction from the Conciliation Officer. It also shows that the workman did not want to have the job with the respondent. Further the claimant has stated in his statement as W. W. 1 that he went to the factory for joining the duty on 3rd April, 1980 but the respondent-management did not provide him the work or raw material to work and he has further stated that he was terminated on 2nd May, 1980 but he has not explained what he was doing in the intervening period. It shows that the workman did not come for duty from 1st April, 1980 and the story does not hold good. The workman in his statement cannot tell when he came on duty. When he cannot tell when he came on duty then how the demand notice of the workman can be believed. The whole evidence of the management and the workman shows that the workman absented himself voluntarily from duty and abandoned his own accord of his employment and after the long absence of the workman, the respondent has no choice except to take legal action against the claimant as per the Certified Standing Orders of the company applicable to them and his name was struck off from the roll. The standing order having the statutory value under the law and action taken according to the standing order is legal action.

The representative of the workman argued that the workmen joined the respondent concerned from 1975 as Radiator Fitter @ Rs. 353/- and there was a lay off in the factory from 17th February, 1980 to 2nd April, 1980 and when on 3rd April, 1980 the claimant approached the respondent concerned for duty he was given no material to work and denied the job and at last they removed the service of the workman on 1st May, 1980 without any reason or notice or enquiry. The workman was a old employee of the respondent and cannot be terminated in the manner in which they have done. They have violated the law and principles of natural justice. The workman should have been given the notice for the absence and have enquired about the reason of his absence and after enquiry there should be some action according to law and if they went to retrenched or removed the workman they should complied with the mandatory provision of section 25-F of the Industrial Disputes Act which they have not done. No retrenchment compensation or notice was given to the workman and the termination is totally wrong. The contention of the workman about his absence is not proved by the respondent and so the voluntarily abandonment of service is not proved.

After hearing the arguments of both the parties, and going through the file, I am of the view that the workman should have given some proof as alleged in his demand notice that there was lay off and he came after the lay off on 3rd April, 1980 and he was given no job. He has not explained that from 3rd April, 1980 to 2nd May, 1980 where he was and what he was doing. Without explanation of this period it is not proved what he was doing from 3rd April, 1980 to 2nd May, 1980 and it is the case of the respondent that the workman did not come on 1st April, 1980. He should have produce some workman or any document to prove this fact that he came on 2nd April, 1980. There is no documentary or oral evidence that he came on 3rd April, 1980 whereas the respondent has proved this fact that he was absent from 3rd April, 1980. The respondent stated before the Conciliation Officer as shown in Ex. M-8 that they are still ready to accommodate to the workman if he explain the absence from the duty. But the workman did not appear to explain this fact as seen from the file. It shows that he abandoned his service according to the Standing Orders of the company and the issues is decided in favour of the respondent and against the workman.

Issue No. 2.—After deciding issue No. 1 in favour of the respondent there is no need of discussion of this issue because the respondent has not terminated services of the workman and the workman voluntarily abandoned his services by way of absenting himself from duty and the respondent has rightly removed the name of the workman from the roll according to the standing order of the company. So it not termination and the reference is bad in law and the issue is decided in favour of the respondent against the workman. The workman is not entitled to any relief. No order as to cost.

This be read in answer to this reference.

Dated, the 20th March, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endorsement No. 698, dated 31st March, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government of Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.